

### **REMARKS**

Claims 1-23 are pending in the present application. Reconsideration of the application is respectfully requested in view of the following responsive remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

In the office action of February 23, 2005, the following actions were taken:

- (1) Claims 4, 5, 16, and 17 were objected to because of alleged informalities in the claims.
- (2) Claims 1-4, 6-16, and 18-23 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 9-12, 16, 17, 22, 26, 30-33, 37, and 38 of co-pending Application No. 10/623,001 (U.S. 2005/0011406).
- (3) Claims 1-3, 5-15, and 17-23 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2004/0020405 (hereinafter "Wright").
- (4) Claims 1, 6, 7, 9-13, 18, 19, and 21-23 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2004/0074018 (hereinafter "Wuzik").
- (5) Claims 1, 6-13, and 18-23 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,808,555 (hereinafter "Wang").
- (6) Claims 1, 6, 7, 9-13, 18, 19, and 21-23 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,596,067 (hereinafter "Menzel").
- (7) Claims 1, 6, 7, 9-13, 18, 19, and 21-23 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,843, 838 (hereinafter "Zimmer").

It is respectfully submitted that the presently pending claims be reconsidered and allowed. Applicants submit that each and every amendment herein, and throughout the prosecution of the present application is fully supported by the specification as originally filed, and that no new matter has been added.

#### **Claim Objections**

Claims 4, 5, 16, and 17 were rejected because of claim informalities. The claims have all been amended per the Examiner's instructions and all informalities have been corrected. Therefore the Applicants request that this objection be withdrawn.

Double Patenting

Claims 1-4, 6-16, and 18-23 were provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1, 5, 9-12, 16, 17, 22, 26, 30-33, 37, and 38 of co-pending Application No. 10/623,001 (U.S. 2005/0011406). The Applicants respectfully provide a timely filed terminal disclaimer that lists the above listed patent in compliance with 37 C.F.R. 1.321(c) and the appropriate fee under 37 CFR 1.20(d) is included. The terminal disclaimer is attached to this response. The applicants respectfully submit that the timely filed terminal disclaimer overcomes the Examiner's non-statutory double patenting rejection and requests that this rejection be withdrawn.

Rejections under 35 U.S.C. § 102(e) and §103

Claims 1-3, 5-15, 23 were rejected under 35 U.S.C. 102(e) over at least one of Wright, Wuzik, Wang, and Menzel. The 102(e) dates of these references are as follows: Wright – September 16, 2002; Wuzik – February 12, 2002; Wang – January 30, 2002; Menzel – July 3, 2001. Claims 1, 6, 7, 9-13, 18, 19, and 21-23 were also rejected under U.S.C. 103 over Zimmer, which has a 102(e) date of December 31, 2002. The Applicants respectfully provide an affidavit under 37 C.F.R. 1.131 to effectively swear behind the cited references. See Exhibit 1. The currently submitted affidavit is signed by all available inventors of the present invention and states that the present invention as claimed was invented prior to July 3, 2001, the earliest of the above cited 102(e) dates. Also enclosed is a page from the laboratory notebook of Alexey Kabalnov, which shows improved results for the claimed dye blends in an ink over other types of dyes and dye blends in inks. See Exhibit 2.

The Manual of Patent Examining Procedure § 715.04(D) states that “where a joint inventor is ... otherwise unavailable, the signatures of the remaining joint inventors are sufficient” for an affidavit under 37 C.F.R. 1.131. Inventor Patricia Wang is not included in the presently submitted affidavit because she has left Hewlett-Packard Company and now works for a competitor company in a similar field, and thus, is considered to be “unavailable” for the purposes of the affidavit. However, it is noted that the affidavit is signed by both of the other named inventors. The Applicants respectfully assert that the correctly filed affidavit overcomes the


Examiner's rejection with respect to these references and requests that all the rejections over the above listed references be withdrawn.

In view of the foregoing, Applicants believe that claims 1-23 present allowable subject matter and allowance is respectfully requested. If any impediment to the allowance of these claims remains after consideration of the above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone W. Bradley Haymond (Registration No. 35,186) at (541) 715-0159 so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No.08-2025.

Dated this 23 day of June, 2005.

Respectfully submitted,

  
M. Wayne Western  
Attorney for Applicants  
Registration No. 22,788

Gary P. Oakeson  
Attorney for Applicants  
Registration No. 44,266

Of:

THORPE NORTH & WESTERN, LLP  
8180 South 700 East, Suite 200  
Sandy, Utah 84070  
(801) 566-6633

On Behalf Of:

HEWLETT-PACKARD COMPANY  
1000 NE Circle Blvd., m/s 422B  
Corvallis, OR 97330-4239  
(541) 715-0159